S. HRG. 98-164

NOMINATION OF JOSEPH H. SHERICK

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

NOMINATION OF

JOSEPH H. SHERICK TO BE THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

APRIL 21, 1983

Printed for the use of the Committee on Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE
20-063 O WASHINGTON: 1983

5401-48

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NOMINATION OF JOSEPH H. SHERICK

THURSDAY, APRIL 21, 1983

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The committee met at 2:09 p.m., in room SD–342, Dirksen Senate Office Building, Hon. William V. Roth, Jr. (chairman of the committee) presiding:

Present: Senator Roth.

OPENING STATEMENT OF SENATOR ROTH

Chairman ROTH. The committee will be in order.

This afternoon, we are holding a hearing to consider the nomination of Joseph H. Sherick to be the Inspector General for the Department of Defense.

I am happy to welcome you here today. Thank you for your cooperation with both the members of the committee and the staff.

The position of Inspector General for the Department of Defense was created by an amendment which I offered last year to the Defense Department authorization bill. While this law is not exactly what I would have liked, I do think it represents a solid basis for improvement in the elimination of fraud and the overall efficiency of defense programs.

The new DOD Inspector General has duties and responsibilities much like those of the civilian IG. He is under the general supervision of the Secretary of Defense, but is independent of the Secretary's control.

The IG is able to initiate any investigation or audit which he deems appropriate and is provided with the authority to report directly to the Congress when he finds particularly serious incidents of waste, fraud, or abuse.

Because of the unique position of the IG in the agency charged with safeguarding our Nation's security, the IG is subject to the authority of the Secretary in specific instances in which the Secretary determines that an IG investigation might endanger national security.

In sum, I believe we have provided the IG with sufficient tools to establish effective programs to prevent fraud and to improve management. These tools will be needed because the potential for waste and mismanagement in DOD programs is increasing dramatically as the budget for the Department grows.

We must show the American people that those tax dollars which are being spent on needed defense programs are being spent wisely

and efficiently. They must be convinced that priorities are being established, ineffective programs are being weeded out, and strong management controls are being implemented to prevent waste and fraud.

The act creating the IG position and its provisions are critical toward insuring better management in DOD, but, the qualifications and abilities of the individual nominated to fill that position are equally important.

The committee has carefully looked at Mr. Sherick's credentials.

To aid in the evaluation of his qualifications to serve in this position, the committee has received information from the Office of Government Ethics and the FBI. The nominee has filed responses to a biographical and financial questionnaire, and he has answered several prehearing questions.

Without objection, this information will be made part of the record.

[The information referred to follows:]

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

Question 1. Name: (Include any former names used.)

Answer. Joseph Henry Sherick.

Question 2. Address: (List current residence address and mailing address.)

Answer. 4809 Bradford Drive, Annandale, Va. 22003.

Question 3. Date and place of birth.

Answer. October 1, 1924, Philadelphia, Pa.

Question 4. Marital status: (Include maiden name of wife or husband's name.)

Answer. Married, Alice Eileen O'Connor Sherick.

Question 5. Names and ages of children.

Answer. Michael Joseph Sherick—32, Mary Ann Sherick Ingberg—31, Joseph Patrick Sherick—28, Stephen Jude Sherick—25, Mathew John Sherick—24, Margaret Sherick—20, John Fitzgerald Kennedy Sherick—18.

Question 6. Education: List institution(s), dates attended, degree received and date degree granted.

Answer. Northeast High School, Philadelphia, Pa., attended from 1939 to 1942. High School Diploma in 1942.

Temple University, Philadelphia, Pa., attended from 1946 to 1949. B.A. Degree in Public Administration, 1949.

Temple University Law School, Philadelphia, Pa., attended from 1954 to 1958. J.D. Degree in 1958.

Question 7. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Answer. May 1981 to Present—Assistant to the Secretary of Defense (Review and Oversight), Department of Defense, Washington, D.C.

September 1976 to May 1981—Deputy Assistant Secretary of Defense (Program/Budget), Office of the Assistant Secretary of Defense (Comptroller), Department of Defense, Washington, D.C.

May 1973 to September 1976—Deputy Comptroller, Department of the Army, Pentagon, Washington, D.C.

July 1968 to May 1973—Budget Officer, Office of the Assistant Secretary of Defense (Comptroller), Pentagon, Washington, D.C.

July 1966 to July 1968—Comptroller, Defense Nuclear Agency, Washington, D.C.

January 1960 to July 1966—Budget Officer, Office of Management and Budget, Washington, D.C.

June 1958 to January 1960—Budget Officer, Office of the Chief of Staff, Department of the Army, Pentagon, Washington, D.C.

September 1950 to June 1958—Budget Officer, Frankford Arsenal, Philadelphia, Pa.

September 1949 to September 1950—Analyst, Swift and Co., Philadelphia, Pa.

Question 8. Government Experience: List all experience in, or association

with Federal, State or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Answer. Some as Question 7, except for period September 1949 to September 1950.

U.S. Navy—Active Duty 1942–1946.

U.S. Navy Reserve—Active Reserve 1946–1951.

Question 9. Business Relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership or other business enterprise, educational, or other institution.

Answer. None.

Question 10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable, and other organizations.

Answer. Virginia State Bar, District of Columbia Bar.

Question 11. Political affiliations and activities: List all offices with a political party or any public office for which you have been a candidate. List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last ten years.

Answer. None.

Question 12. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievements.

Answer. Awards: Distinguished Executive in the Senior Executive Service, 1981. Secretary of Defense Distinguished Civilian Service Medal, 1980. Secretary of Defense Meritorious Civilian Service Medal with Palm, 1978. Army Exceptional Civilian Service Medal, 1975. Secretary of Defense Meritorious Civilian Service Medal, 1973. Defense Atomic Support Agency Exceptional Civilian Service Medal, 1967. Seven Outstanding Performance Awards.

Question 13. Published Writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Answer. Progress Report from the Fraud and Waste Front, February 1982, *Defense 82.*

Defense Oversight, May–June 1982, *National Defense.*

Cracking Down on Fraud in Government Procurement, January 1983, *Defense 83.*

Question 14. Speeches: Provide the committee with two copies of any formal speeches you have delivered during the last five years which you have written copies of and which are on topics relevant to the position for which you have been nominated.

Answer. I have given many speeches during my career, some of which have touched upon topics relevant to the position for which I have been nominated. However, I usually speak extemporaneously or from notes.

Question 15. Selection: (a) Do you know why you were chosen for this nomination by the President?

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Answer. (a) I expect it relates to my extensive career in Government service, especially my position during the last few years as Assistant to the Secretary of Defense (Review and Oversight) when I administered an organization which has become the nucleus for the new Inspector General Office.

(b) As mentioned above, I have performed a similar function for the past 2 years. I also have a law degree and extensive analytical experience in financial management.

B. FINANCIAL DATA (RETAINED IN COMMITTEE FILES)

C. FUTURE EMPLOYMENT RELATIONSHIPS

Question 1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Answer. I am currently employed by the Department of Defense and would continue to be in this position.

Question 2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Answer. No.

Question 3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Answer. No.

Question 4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Answer. No.

Question 5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Answer. Yes.

D. POTENTIAL CONFLICTS OF INTEREST

Question 1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

Answer. None.

Question 2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Answer. None.

Question 3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Answer. None.

Question 4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

Answer. During this period, I served in three positions in the Department of Defense—Deputy Comptroller of the Army; Deputy Assistant Secretary of Defense (Program/Budget), Office of the Assistant Secretary of Defense (Comptroller); and Assistant to the Secretary of Defense (Review and Oversight). In each of these positions, I represented the Department of Defense before the Congress on budget matters and items related to Inspector General legislation and other defense programs.

Question 5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

Answer. I shall seek the advice of the Assistant General Counsel, Department of Defense, assigned to the Defense Inspector General and keep myself informed on current laws and regulations applicable to the position I will hold.

Question 6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any other legal barriers to your serving in this position?

Answer. Yes.

E. LEGAL MATTERS

Question 1. Have you been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

Answer. No.

Question 2. Have you ever been investigated, arrested, or charged or held by any Federal, State or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

Answer. No.

Question 3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Answer. No.

Question 4. Have you ever been convicted (including pleas of guilty or *nolo contendere* of any criminal violation other than a minor traffic offense?

Answer. No.

Question 5. Please advise the committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. None.

AFFIDAVIT

I, Joseph Sherick, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

MARCH 31, 1983

JOSEPH H. SHERICK

MARGARET E. POINDEXTER

(Notary)

My commission expires August 25, 1985.

RESPONSES TO PREHEARING QUESTIONS

I. *Background.* There must be absolute assurance that examinations of the actions of senior military officers and civilians (i) are conducted by independent, qualified auditors and investigators, (ii) directly address the allegation made, and (iii) are comprehensive in depth and scope and completely objective.

Senior military officials in the Army, Navy and Air Force usually review allegations made against their peers in the general and flag ranks. This practice has been criticized in the past because it sometimes results in lesser punishment or admonishments than lower ranking military personnel receive for similar offenses. And, in some cases where the allegations are well founded, the senior official is given a letter of reprimand or allowed to retire.

Question 1. What plans do you have for a DoD IG review of the adequacy of examinations of GAO and DoD Hotline cases (involving senior military service officials) referred to the Military Services for examination?

Answer. We have established in DoD Directive 7050.1 ("DoD Hotline") what we feel are excellent procedures which provide a high degree of oversight and assure thorough reviews and proper disposition in such cases. The DoD Hotline Advisory Council [1] reviews all allegations involving flag or general officers and provides disposition guidance in the matter. Acting on the recommendations of the Advisory Council, the matter is forwarded, by the Hotline, to the appropriate service or agency for examination. The response to the allegation is reviewed by the Hotline staff for completeness and appropriateness of action. If considered deficient, the response is returned to the examining official for clarification or additional investigation. Should the subsequent answer prove to be unsatisfactory, the file is then referred to the Advisory Council for final disposition and/or for an investigation to be conducted by special agents or auditors of the DoD Inspector General.

II. *Background.* GAO discusses in an unreleased report that there is a jurisdictional void that hinders investigations and prosecutions of U.S. civilians in foreign countries. Host countries actively investigate and prosecute U.S. civilians who violate laws of interest to their countries. However, when the alleged crimes involve fraudulent acts by U.S. civilians or military personnel against the U.S. Government, the host country isn't always concerned about seeing that the offenders are prosecuted. The Uniform Code of Military Justice enables the Defense Department to handle such crimes by military personnel, but there is currently little DOD can do in cases concerning civilians.

Question 1. Have you discussed this continuing problem with the chiefs of the Army, Navy and Air Force investigative agencies? Is the problem a particularly significant one in DoD? Are you prepared at this time to suggest an appropriate remedy?

Answer. This problem has been discussed not only with the heads of the Army Criminal Investigation Command, the Naval Investigative Service and the Air Force Office of Special Investigations, but also with the Department of Justice. I regard the problem as a significant one and agree with the recommendation made by GAO in its 1979 report on this issue that legislation is required. As you may be aware, such legislation was offered in the last Congress as H.R. 113. No companion legislation was offered in the Senate.

I view such legislation as an appropriate remedy. In fact, I recently recommended that such legislation be supported by the Inspector General community.

[1] Consists of: Deputy IG, Assistant IG for Auditing, Assistant IG for Investigations, and Assistant IG for Inspections.

Furthermore, as part of my support for this legislation, members of my staff have, in the past several months, provided the staff of Senate Permanent Subcommittee on Investigations with background information on this type of legislation including examples of how prosecution of serious offense has been avoided due to this legislative void.

III. *Background.* OMB Circular A–73 as amended requires that audit recommendations are tracked. Information recently furnished to this Committee shows that you are making substantial progress in ensuring effective audit followup, especially on DoD IG and GAO reports.

Question 1. What action are you taking to establish a tracking system for DoD investigations? Will it include investigations conducted by the military services as well as DoD IG investigations? At what point in the process of an investigation will it enter the tracking system? If each DoD investigative organization maintains its own tracking system, what will you do to assure continuity and uniformity of individual information systems?

Answer. On September 15, 1982, I published DoD Instruction 7920.3, "DoD Investigative Management Information System," which established such a system known by its acronym, "DIMIS." This system was established to collect data on referred and closed DoD investigations. Currently, the DoD investigative organizations are field testing the DIMIS system and a report of the results of this test activity should be provided to me within the next few weeks. Once any systems modifications are made as a result of the field testing, DIMIS should become fully operational.

The DIMIS will include investigations by the military services and by the DoD IG concerning the loss or potential loss of Government property, funds and services, as well as investigations involving corruption. However, it will not include criminal investigations concerning other categories of criminal offenses; it will also not include intelligence and counterintelligence investigations.

The investigations will be entered into the DIMIS upon completion of active investigation by the DoD criminal investigative agency or upon referral to a non-Department of Defense agency for investigation or prosecution. Cases which have been referred to the Department of Justice will be tracked through the interface of the DIMIS with the Department of Justice Fraud and Corruption Tracking ("FACT") System. The disposition of all such cases including prosecutive declinations will thus be available through the DIMIS/FACT systems interface.

The DIMIS Instruction requires the establishment of an information and reporting program within each of the Military Departments to meet the reporting requirements of the DIMIS. The information reporting and retrieval requirements of the DIMIS will be coordinated with the DIMIS System Manager who is an official designated by the Director of the Defense Investigative Service (DIS). Each Military Department is required to designate a single office of responsibility within that Department to coordinate these requirements with the DIMIS System Manager. The overall guidance and management of the DIMIS rests within the Office of the Inspector General to include developing, managing, and monitoring procedures involved in operating DIMIS. This will ensure uniform implementation throughout the Department of Defense.

Question 2. What is the likelihood of developing a single management information system for all DoD criminal investigation cases under DoD IG management?

Answer. In essence, DIMIS does represent a single Management Information System (MIS) for all DoD investigative organizations although it is limited at this time to certain types of cases. The need for a single MIS to control all DoD criminal investigation would largely depend on my assessment over the next 2 years of whether DIMIS, coupled with the interfacing individual management information systems of the investigative organizations, meets all of DoD needs. If our information needs for reporting and oversight purposes can be met without a single, completely integrated MIS for all criminal investigations in DoD, then I would have reservations over recommending its establishment.

Question 3. A–73 provides that resolution of an audit recommendation should occur once management agrees with the audit findings. The problem, however, is not actually resolved at that point and no money is recovered until management takes action on audit findings. Do you think the definition of "audit resolution" as contained in A–73 is appropriate?

Answer. OMB Circular A–50, the successor to A–73, distinguishes between resolution of an audit and corrective action. Resolution usually occurs when

management agrees with the audit findings and recommendations. The Circular goes on to define corrective action as "measures taken to implement resolved audit findings and recommendations".

I fully agree with the OMB distinction between resolving disputes and correcting the problems. Correcting problems brought out by an audit may take a long time. Most defense audits involve changes in management procedures. Few involve simply collecting funds. DoD's followup directive requires that management provide a timetable for implementing corrective actions. I strongly believe that management, not auditors, should determine the appropriate timetable for correcting problems. The followup official must ensure that corrective action indeed takes place in accordance with the schedule.

IV. *Background.* The primary responsibility of the DCAA auditor is to provide contract audit support to Government procurement and contract administration officials. But occasionally, in their intensive analyses of contractor cost representations, DCAA auditors observe potential fraud and mismanagement situations involving contractors and Government officials. DCAA reports the contractors' potential fraud to DoD investigators and/or the FBI, but DCAA (because of its special relationship with DoD procurement officials) does not report its observations regarding Government mismanagement to DoD auditors. In hearings before this Committee on June 18, 1981, you testified that you did not agree with the Task Force position that contract auditors should not be placed in the position of reviewing and reporting on the client (i.e., Government procurement officials).

Question 1. Would you please restate your position on this matter and describe what actions you plan to take to implement this new DoD audit policy?

Answer. As with any other government employee, a contract auditor who observes fraudulent or illegal acts by Government procurement officials, has a responsibility to report such matters to appropriate criminal investigative officials. Also, if the contract auditor observes instances of mismanagement by Government procurement officials, this matter should also be reported through appropriate channels. As part of my oversight responsibilities, my staff is evaluating the extent to which the contract auditors are reporting deficiencies in the contract management process to appropriate Defense officials. To the extent that such oversight reviews indicate a need for new or revised audit policy guidance, my office will issue such guidance.

Question 2. During the debate on the amendment creating your office, questions were raised concerning the role of the Defense Contract Audit Agency in relation to the new Inspector General. Do you believe the DCAA should remain independent from the office of the Inspector General?

Answer. While DCAA is not a part of the Office of the Defense Inspector General, it is subject to the oversight evaluation and policy direction of the Defense Inspector General. I am responsible for auditing the auditors. The Congress last year, after considerable study, retained DCAA under the Defense Comptroller. I have no reason to disagree with that now. Should my views change, I will certainly advise the Congress.

Question 3. The Director of the Defense Contract Audit Agency is currently developing procedures to be followed by the DCAA auditors when they discover potential fraud incidents. This action, as we understand it, is being negotiated with representatives of the various Defense Department investigative organizations. Since this action involves DoD audit policies, it would seem most appropriate for the DoD IG, rather than DCAA, to develop the procedures by which auditors refer suspected incidents of fraud to investigators. Would you agree? If so, what action do you plan to take in this regard?

Answer. A proposed Memorandum of Understanding between DCAA and the DoD investigative organizations is currently the subject of ongoing review among the affected parties. Proposals and counterproposals have been exchanged over the past few months and we expect to resolve all issues early this month. The Memorandum of Understanding would provide for expedited referral of possible fraud cases from DCAA to the DoD investigative organizations by specifying procedures by which indicators of fraud would be transmitted from DCAA auditors at the local level to their counterpart DoD investigators in the field.

The formulation of such a Memorandum of Understanding has been undertaken with the direct involvement of representatives of the DoD IG office. Its adoption does not signal the end to IG oversight and policy development in this area. Indeed, I intend for both the audit and criminal investigative oversight and policy offices to play a coordinated role in the future in reviewing not only

whether the referral procedures of the anticipated Memorandum of Understanding are followed, but also in analyzing the more fundamental issue of whether quality referrals are being made by DCAA and whether prompt and adequate action is being taken by DoD investigative organizations in response to those referrals.

Question 4. The government audit standards issued by the Comptroller General are applicable to all government auditors, both internal and contract auditors, as well as outside CPA firms who perform audits for the Federal Government.

Do you know of anything in those standards which establishes a relationship between contract auditors and their clients (the government procurement officials) that is different from the relationship between internal auditors and their clients (government managers, including procurement officials)?

Answer. No. The relationship is the same, that of providing independent audit advice to their client. However, the type of audit services provided are different. The contract auditor is responsible for auditing the financial records of contractors and providing advice to the contracting officer (client) on the financial records, while the internal auditor audits the records and operations of the client.

Question 5. Since both internal and contract auditing are advisory services, is there any reason why contract auditors should not be completely independent of the procurement officials for whom they conduct audits?

Answer. No. I believe that the current operating procedures and organizational alignment of DCAA meets the criteria for independence in the Comptroller General standards. I am not aware of any inherent personal, external or organizational matters that would impair the contract auditor's ability to form independent and objective opinions and conclusions.

Question 6. Do you believe this independence could be assured by placing DCAA under the DoD IG? Please explain.

Answer. Yes, putting DCAA under the IG would assure their continuing independence with the same statutory safeguards enjoyed by the IG. However, as I stated before, I am not aware of any impairments to the independence of DCAA under the current organizational alignment. With my contract oversight and policy responsibilities, I provide an internal check or control over the effectiveness and independence of DCAA operations. If I find a problem with their independence, I will not hesitate to bring it to the attention of the Congress.

V. *Background.* The original IG legislation (Pub. L. 95–452, The Inspector General Act of 1978) assigns, among other functions, the responsibility for prescribing Departmental or agency-wide audit policies to the Inspectors General. In addition to the duties prescribed for other IGs by the 1978 Act, the Defense Department IG, according to Pub. L. 97–252, is responsible for overseeing audit policies relating to fraud, waste and abuse.

As you know, the Defense Department has several audit organizations: the Army Audit Agency, Naval Audit Service, Air Force Audit Agency and DoD IG audit unit, who perform audits of DoD operations (i.e., internal audits); the Defense Contract Audit Agency and Corp of Engineers auditors who examine cost proposals and claimed costs by contractors (i.e., contract audits); audit groups which specialize in auditing the three military exchange systems (i.e., internal audits); and numerous local internal review groups who conduct financial, economy and efficiency audits (i.e., internal audits). In addition, the DoD components engage scores of Certified Public Accountants to perform financial and economy and efficiency audits.

Question 1. What, in your judgment, are the DoD IG's responsibilities in regard to prescribing DoD audit policies?

Answer. As stated in our charter, the DoD IG has the responsibility to (1) provide policy direction for audits and investigations relating to fraud, waste and abuse and program effectiveness, (2) provide policy direction for and conduct, supervise and coordinate audits and investigations relating to DoD programs and operations and (3) provide policy guidance for the resolution and followup on audit reports. Also, the IG legislation requires the Inspector General to establish guidance for determining when it shall be appropriate to use non-Federal auditors. This policy guidance would be provided in the form of DoD directives and instructions and directive-type memoranda. At present, we have seven DoD directives and instructions that deal with audit policy matters on a DoD-wide basis.

Specifically, do you believe the DoD IG is the policy maker for all DoD internal audit and contract audit activities?

Answer. I most assuredly believe that the Defense Inspector General is the policy maker for all DoD internal and contract audit activities.

Question 2. The duties of the DoD IG, according to the charter (DoD Directive 5106.1) include one to ". . . provide policy direction for audits and investigations relating to fraud, waste and abuse and program effectiveness." There is no mention here about providing contract audit policy. Since some officials in the office of the Defense Comptroller and the Under Secretary of Defense for Research and Engineering (where DoD acquisition policy is formulated) and in the Defense Contract Audit Agency could question the assumption of contract audit policy responsibilities by the DoD IG, why doesn't the DoD IG's charter directive clearly state the DoD IG's total audit policy responsibilities?

Answer. The Inspector General, under the IG Act and the IG Charter, has policy responsibility for all audits, including contract audits. If confirmed, I will put out contract audit policy in the near future. II have no doubt that such policy will be followed.

VI. *Background.* You have a wealth of experience in the Defense Department, including several years as a key program/budget official in the office of the Assistant Secretary of Defense. During that period you undoubtedly worked closely with other OSD and military service personnel in developing and preparing DoD programs and budgets.

Question 1. In the DoD IG position, your relationship with these officials assumes an entirely different perspective—that of an independent auditor and investigator who performs objective examinations of the operations managed by these officials and issues critical reports when deficiencies are disclosed. How do you expect to deal with this changed relationship?

Answer. As the budget officer, I frequently criticized funding requests or program operations. In that job I used the same kind of analytical and persuasion skills to rectify problems. I do not see this job as being significantly different although it does carry with it more independence and responsibility because the matters may transcend budget issues.

Question 2. How would you deal with a specific situation if DoD auditors or investigators disclosed, for example, a significant budgeting deficiency that originated when you were a program/budget official?

Answer. I would deal with it in the same fashion as if it had originated when I was not in the program/budget office. I would simply call the shots as I see them, explain the problem to management and attempt to correct it. If that failed I would go to the Secretary of Defense or the Congress and urge them to act to ensure that Public Laws, DoD Directives and other regulations, etc., are complied with fully.

VII. *Background.* The establishment of the DoD IG, as prescribed by Pub. L. 97–252, calls for transferring at least 100 contract auditors to the Office of the DoD IG.

Question 1. How are you planning to use these resources? Are they going to conduct the same kinds of contract audits the Defense Contract Audit Agency auditors do? Please explain.

Answer. Let me answer the last part first. The IG's contract auditors will not conduct the same kinds of contract audits that DCAA auditors do. A significant portion of DCAA audit resources are devoted to audits of contractor proposals and other pre- and postaward audits supporting the procurement process. The IG's contract auditors will audit a specific contractor's records and management operations or look at a problem area that has broader impact involving several contractors. We plan to rely on DCAA's work where they have already covered an issue of interest to us or to request assistance from them where it is economical and feasible to do so.

Ten of the 100 positions will be used to augment contract audit policy and oversight and contract audit followup functions. We plan to use the remaining 90 auditors in the Office of the Assistant Inspector General for Auditing. These 90 auditors will be part of a 168-man organization devoted to acquisition audits. The additional 78 personnel will come from a realignment of resources from within the Office of the Assistant Inspector General for Auditing. These 168 personnel will be organized into three major groupings: Major Acquisition Programs, Acquisition Support Programs and Contract Audit Programs and will consist of 14 separate audit teams.

The Major Acquisition Programs group will consist of five audit teams devoted to reviewing complete weapon systems. For example, these audit teams would review all aspects of a single weapon system, or family of systems, covering both the DoD management and the contractor(s) management of the program. The teams will be organized along weapon system functional lines (Aeronautical Programs, Land Forces Programs, Naval Forces Programs and Space Programs).

The Acquisition Support Programs group will do crosscutting reviews of the same function across many weapon systems or activities. Configuration management, competition in procurement, life cycle costing would be examples of audits that these teams would conduct. The audit teams will be for procurement, contract administration, RDT&E support and acquisition management.

The Contract Audit Programs group will consist of six teams. Four teams of contract auditors and two teams of technical specialists knowledgeable in the technical areas supporting the procurement function such as engineering, cost estimating, quality assurance and contracting. The technical teams would support the work of the contract auditors as well as any other audit teams needing such technical assistance. The majority of their work is expected to be in the major acquisition area. The contract audit teams will perform reviews of contractors in conjunction with the review of weapon systems, assuring that a comprehensive review of a program or problem area is accomplished. They would also conduct broad reviews of activities that affect DoD contracts and contractors in general. Examples of the kinds of audits they would conduct or assist in are the use of the contract auditor input in negotiations, the authenticity of contractor cost estimates on weapon systems, progress payments, contractor make or buy decisions, subcontractor purchasing procedures and competition therein.

Question 2. Defense Contract Audit Agency auditors and General Accounting Office auditors usually have access to contractors' records because such access is provided for in the contracts. The contract clauses do not specifically grant DoD IG auditors and investigators access to contractor records. How do you expect to resolve this matter if you decide to examine contractors' records? Are you prepared to use the subpoena power to gain access?

Answer. Access to contractor records has not been a problem to date. The contracting officer has the authority to obtain access to contractor records and we have used this avenue in the past. However, if either my auditors, investigators or inspectors experience an access to records problem with an individual contractor, I will not hesitate to use the subpoena power provided under the Inspector General Act of 1978.

Chairman ROTH. Mr. Sherick, as you probably are aware, under the rules of this committee, all witnessses at nomination hearings must be under oath.

Will you please stand and raise your right hand?

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SHERICK. I do.

Chairman ROTH. Please be seated.

Do you have any opening remarks?

Mr. SHERICK. I have no prepared remarks, but I do have a brief statement that I would like to make.

TESTIMONY OF JOHN H. SHERICK, NOMINEE TO BE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

Mr. SHERICK. First, I would like to thank you and the members of the committee for the opportunity to appear before the committee and respond to your questions and comments regarding my fitness for the position of Statutory Inspector General of the Department of Defense.

I recognize the major leadership role the committee played in the development and enactment of the legislation that lead to the establishment of this position and the support the committee and you have given to the IG community over the years.

I personally feel that this is truly a major event in the continued refinement and improvement in the management of the Department of Defense. It promises significant dividends.

I also recognize that the establishment of the Office and the development and implementation of the policy, rules, regulations, and standards under which the office will operate in the future is an important and critical task.

If confirmed by the Senate, I pledge my best efforts to lay a foundation for the office, its policy and mode of operation that will meet the high standard of the office envisioned by this committee in its legislative enactment.

Mr. Chairman, that completes my statement.

I would be happy to respond to questions.

Chairman ROTH. Mr. Sherick, is there anything you are aware of in your background which might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. SHERICK. No, sir.

Chairman ROTH. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the IG for the Department of Defense?

Mr. SHERICK. No, sir.

Chairman ROTH. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Mr. SHERICK. I agree.

Chairman ROTH. The committee has received information concerning the conduct of the IG's office in an audit of the DOD Executive Motor Pool.

In February, I requested that the GAO investigate the questionable use of government owned automobiles by DOD officials.

Without objection, I would make that letter a part of the hearing record.

[The letter referred to follows:]

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., February 18, 1983.

Hon. CHARLES A. BOWSHER,
Comptroller General, General Accounting Office, Washington, D.C.

DEAR CHUCK: My Committee, as you know, has a continuing interest in efficient and effective management in the Defense Department and in the prevention and detection of fraud, waste and abuse in its operations. While the main focus of our oversight efforts will be directed largely to the Department's primary missions and its major programs, the Committee also has a strong interest in various aspects of the Department's numerous administrative support operations.

One of these support operations is the management and use of government-owned automobiles. I am concerned about the extent of the mismanagement and misuse of government chauffeur-driven motor vehicles which has recently come to light. My concern is based on the reported unauthorized use of such vehicles by high ranking officials in the Veterans Administration (VA) and the Department of Housing and Urban Development (HUD).

I am concerned that these problems may not be confined to the Department of Defense. Accordingly, I am requesting that the General Accounting Office conduct

a study concentrating on the executive motor pools supporting the Office of the Secretary of Defense and the Army, Navy and Air Force headquarters.

Such a study should not be confined merely to questionable use of government-owned automobiles for home-to-office transportation of DoD officials. Rather, it should be based on a thorough review of all trips by officials in the OSD and the service headquarters taken since January of 1982. The study should review how approvals for the use of agency vehicles are made, which officials are authorized to use such vehicles and for what purposes, and how records on the use of agency vehicles are kept. There should also be an examination of the costs associated with excessive use of government vehicles, especially one-time expenses for chauffeurs and drivers.

I understand that a limited review of some aspects of this problem is already under way in GAO. If that is the case, I would expect the study I am requesting could be completed within four months.

I look forward to hearing from you on this matter and suggest that the GAO auditors you assign to this study contact Link Hoewing of my Committee staff at 224–4751 before beginning their work.

Sincerely,

WILLIAM V. ROTH, JR.,
Chairman.

Chairman ROTH. When this report is issued, I will carefully review its findings.

My question to you, Mr. Sherick, why was the DOD audit on the executive motor pool initiated?

Mr. SHERICK. I had initiated an earlier audit of the use of administrative aircraft. When we found abuse in the use of administrative aircraft, at the completion of that audit, I directed that we also look at administration of motor vehicles. One of the first areas that we were concerned with was the executive motor pools. We made this area the first part of our audit.

That audit is continuing into the operation of the executive motor pools. We are now moving into the motor pools of the Navy and the Army.

Chairman ROTH. Now, a quick reaction report was issued after the investigation. It is my understanding that this is not the usual practice for the IG's office or its predecessor, the Defense Audit Service.

Why was a quick reaction report issued in this particular instance?

Mr. SHERICK. My philosophy is that auditors are responsible for stopping waste and abuse as well as detecting it. When the auditors first went into the executive motor pool, they indicated that: there were weak controls; there was no screening to insure the official purpose of trips; regulations and limitations were not known to the people using the pool; and the auditors felt the situation left the motor pool open to abuse and some abuse was indeed happening.

The quick reaction report is an accepted tool of audit. We had changed our regulation in October to provide for quick reaction reports and had issued three others at about the some time.

So it wasn't something new. We had previously used them, and I propose to continue issuing them wherever we find abuse that could continue.

Chairman ROTH. Do you feel there has been adequate followup?

Mr. SHERICK. Yes, sir, I think that the corrective action that is underway is——

Chairman ROTH. What does that consist of?

Mr. SHERICK [continuing]. Is going to be effective.

Chairman ROTH. I am sorry, I couldn't hear you.

Mr. SHERICK. The corrective action that is under way is going to be effective.

New regulations have been put out; the people using the pool have been advised of the limitations on the use of the pool, and I believe our followup will indicate that other corrective actions have been taken by management.

Chairman ROTH. With respect to those who use the motor pool improperly, is any effort being made to——

Mr. SHERICK. Yes; we are collecting equivalent taxi fares for any use that was unofficial.

Chairman ROTH. What is your view of the relationship which should exist between the IG and the Secretary of Defense?

Mr. SHERICK. Well, I think that the IG has to be an advisor to the Secretary, but he has to keep his distance from the Secretary in that he has to be objective and independent in terms of where he goes, what he looks at and what his findings are.

I think he has to support the Secretary in a sense of looking at areas that the Secretary feels are important to him for a quick audit or even a long review, and in the 2 years that I have been in the position as assistant to the Secretary for Review and Oversight, I have done that.

I meet with the Secretary every day.

I bring up subjects or items to keep him informed. From time to time, as he sees problems, he asks me to do special audits.

Many times, the Congress asks him for investigations, and he has turned to me. I just completed an audit of the F–18 program for the Secretary which we are sending to the Congress this week.

Chairman ROTH. I would like to underscore the importance of the independence of the IG. As you know, there was considerable concern expressed in Congress that the compromise or accommodation between conflicting goals that was made might jeopardize that independence.

So I think that as the first person to hold this important position you must establish a tradition of strong independence in looking at those areas in greatest need and be willing to call upon and advise Congress where necessary.

Mr. SHERICK. Yes, sir.

Chairman ROTH. Mr. Sherick, I think no one else is here, so that ends my questions.

Again, I wish you very well in your future endeavors. I think this post is critically important in assuring the American people that their tax dollars are well spent in defense procurement.

Mr. SHERICK. Thank you, very much, Mr. Chairman.

Chairman ROTH. Thank you.

The committee is in recess.

[Whereupon, at 2:20 p.m., the committee was recessed, to reconvene at the call of the Chair.]

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ERRATA

Nomination of Joseph H. Sherick

The Senate Committee on Governmental Affairs hearing re the nomination of Joseph H. Sherick was inadvertently assigned an incorrect publication number.

The correct designation is S. HRG. 98–64.